

HOUSE BILL 1504

By Fritts

AN ACT to amend Tennessee Code Annotated, Title 4;
Title 47 and Title 65, relative to social media.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 47, is amended by adding the following
as a new chapter:

47-34-101.

As used in this part:

(1) "Algorithm" means a mathematical set of rules that specifies how a
group of data behaves and that:

(A) Assists in ranking search results and maintaining order; or

(B) Is used in sorting or ranking content or material based on
relevancy or other factors instead of using published time or chronological
order of the content or material;

(2) "Person" means a natural person or legal entity, corporation, firm,
association, organization, partnership, limited liability company, business, or
trust;

(3) "Social media platform":

(A) Means an internet website or application that is open to the
public, allows a user to create an account, and enables users to
communicate with other users for the primary purpose of posting
information, comments, messages, or images; and

(B) Does not include:

(i) A company that provides connectivity to the internet or another wide area network;

(ii) Electronic mail; or

(iii) An online service, application, or website:

(a) That consists primarily of news, sports, entertainment, or other information or content that is not user generated but is preselected by the provider; and

(b) For which the chat, comments, or interactive functionality is incidental to, directly related to, or dependent on the provision of the content described by subdivision (3)(B)(iii)(a); and

(4) "User":

(A) Means a person who posts, uploads, transmits, shares, or otherwise publishes or receives content through a social media platform; and

(B) Includes a person who has a social media platform account that the social media platform has disabled or locked;

47-34-102.

This part applies only to:

(1) A user who:

(A) Resides or is located in this state;

(B) Does business in this state; or

(C) Shares or receives content on a social media platform in this state; or

(2) A social media platform that functionally has more than fifty million (50,000,000) active users in the United States, including the District of Columbia and the several territories of the United States, in a calendar month.

47-34-103.

(a) A social media platform shall publicly disclose accurate information regarding its content management, data management, and business practices, including specific information regarding the manner in which the social media platform:

- (1) Curates and targets content to a user;
- (2) Places and promotes content, services, and products, including its own content, services, and products;
- (3) Moderates content;
- (4) Uses search, ranking, or other algorithms or procedures that determine results on the platform; and
- (5) Provides a user's performance data on the use of the platform and its products and services.

(b) The disclosure required by subsection (a) must be sufficient to enable a user to make an informed choice regarding the purchase of or use of access to or services from the platform.

(c) A social media platform shall publish the disclosure required by subsection (a) on an internet website that is easily accessible by the public.

47-34-104.

(a) A social media platform shall publish an acceptable use policy in a location that is conspicuous and easily accessible to a user.

(b) A social media platform's acceptable use policy must:

(1) Reasonably inform a user about the types of content allowed on the social media platform;

(2) Explain the steps the social media platform will take to ensure content complies with the policy;

(3) Explain the means by which a user can notify the social media platform of content that potentially violates the acceptable use policy, is illegal content, or is illegal activity, including:

(A) An email address or relevant complaint intake mechanism to handle a user complaint; and

(B) A complaint system described in § 47-34-106; and

(4) Include publication of a biannual transparency report outlining actions taken to enforce the policy.

47-34-105.

(a) As part of a social media platform's acceptable use policy required under § 47-34-104, the social media platform shall publish a biannual transparency report that includes, with respect to the preceding six-month period:

(1) The total number of instances in which the social media platform was alerted to illegal content, illegal activity, or potentially policy-violating content by:

(A) A government;

(B) A user complaint;

(C) An internal automated detection tool;

(D) Coordination with other social media platforms; or

(E) An employee of, or person contracting with, the social media platform.

(2) Subject to the requirements of subsection (b), the total number of instances in which the social media platform acted with respect to illegal content, illegal activity, or potentially policy-violating content known to the platform due to the nature of the content as illegal content, illegal activity, or potentially policy-violating content, including:

- (A) Content removal;
- (B) Content demonetization;
- (C) Content deprioritization;
- (D) The addition of an assessment to content;
- (E) Account suspension;
- (F) Account removal; or
- (G) Other action taken in accordance with the platform's acceptable use policy;

(3) The country of the user who provided the content for each instance described by subdivision (a)(2);

(4) The number of coordinated campaigns, if applicable;

(5) The number of instances in which a user appealed the decision to remove the user's potentially policy-violating content;

(6) The percentage of appeals described in subdivision (a)(5) that resulted in the restoration of content; and

(7) A description of each tool, practice, action, or technique used in enforcing the acceptable use policy.

(b) The information described in subdivision (a)(2) must be categorized by:

- (1) The rule violated; and

(2) The source for the alert of illegal content, illegal activity, or potentially policy-violating content, including:

- (A) A government;
- (B) A user;
- (C) An internal automated detection tool;
- (D) Coordination with other social media platforms; or
- (E) A person employed by, or contracting with, the platform.

(c) A social media platform shall publish the information described in subsection (a) with an open license, in a machine-readable and open format, and in a location that is conspicuous and easily accessible to users.

47-34-106.

A social media platform shall provide a complaint system that is located in a conspicuous and easily accessible location to enable a user to submit a complaint in good faith and track the status of the complaint, including a complaint regarding:

- (1) Illegal content or activity; or
- (2) A decision made by the social media platform to remove content posted by the user.

47-34-107.

A social media platform that receives notice of illegal content or illegal activity on the social media platform shall make a good faith effort to evaluate the legality of the content or activity within forty-eight (48) hours of receiving the notice, excluding hours during a Saturday or Sunday and subject to reasonable exceptions based on concerns about the legitimacy of the notice.

47-34-108.

(a) Except as provided in subsection (b), if a social media platform removes content based on a violation of the platform's acceptable use policy, then the social media platform shall, concurrently with the removal:

(1) Notify the user who provided the content of the removal and explain the reason the content was removed;

(2) Allow the user to appeal the decision to remove the content to the platform; and

(3) Provide written notice to the user who provided the content of:

(A) The determination regarding an appeal requested under subdivision (a)(2); and

(B) In the case of a reversal of the social media platform's decision to remove the content, the reason for the reversal.

(b) A social media platform is not required to provide a user with notice or an opportunity to appeal under subsection (a) if the social media platform:

(1) Is unable to contact the user after taking reasonable steps to make contact; or

(2) Knows that the potentially policy-violating content relates to an ongoing law enforcement investigation.

47-34-109.

If a social media platform removes content based on a user complaint that the social media platform received, and the user whose content was removed believes the content did not violate policy, the user may submit a complaint about the removal. If a user submits a complaint about removal of the user's content that the user believes did not violate policy, then the social media platform shall, no later than fourteen (14) days,

excluding Saturdays and Sundays, after the date the social media platform received the complaint:

- (1) Review the content;
- (2) Determine whether the content adheres to the platform's acceptable use policy;
- (3) Take appropriate steps based on the determination under subdivision (2); and
- (4) Notify the user regarding the determination made under subdivision (2) and the steps taken under subdivision (3).

47-34-110.

(a) The attorney general and reporter may bring an action against a social media platform to enjoin a violation of this part.

(b) If an injunction is granted in an action brought under subsection (a), then the attorney general and reporter may recover costs incurred in bringing the action, including reasonable attorneys' fees, court costs, and reasonable investigative costs.

47-34-201.

As used in this part:

- (1) "Algorithm" has the same meaning as defined in § 47-34-101;
- (2) "Censor" means to block, ban, remove, deplatform, demonetize, deboost, restrict, deny equal access or visibility to, shadow ban, or otherwise discriminate against expression;
- (3) "Deplatform" means an action or practice by a social media platform to permanently delete or ban a user, or to temporarily delete or ban a user, from the social media platform for more than twenty-one (21) consecutive days;

(4) "Expression" means a word, music, sound, still or moving image, number, or other perceivable communication;

(5) "Person" has the same meaning as defined by § 47-34-101;

(6) "Receive," with respect to an expression, means to read, hear, look at, access, or gain access to the expression;

(7) "Shadow ban":

(A) Means an action by a social media platform, whether the action is determined by a natural person or an algorithm, to limit or eliminate the exposure of a user or content or material posted by a user to other users of the social media platform; and

(B) Includes such actions by a social media platform that are not readily apparent to a user;

(8) "Social media platform" has the same meaning as defined in § 47-34-101;

(9) "Unlawful expression" means an expression that is unlawful under the federal or state constitution or federal or state law, including expression that constitutes a tort under federal or state law; and

(10) "User" has the same meaning as defined by § 47-34-101.

47-34-202.

This part applies only to:

(1) A user who:

(A) Resides or is located in this state;

(B) Does business in this state; or

(C) Shares or receives expression in this state; or

(2) Expression that is shared or received in this state.

47-34-203.

(a) A social media platform shall not censor a user, a user's expression, or a user's ability to receive the expression of another person based on:

(1) The viewpoint of the user or another person;

(2) The viewpoint represented in the user's expression or another person's expression; or

(3) A user's geographic location in this state.

(b) This section applies regardless of whether the viewpoint is expressed on a social media platform or through another medium.

47-34-204.

A waiver or purported waiver of the protections provided by this part is void and unenforceable as contrary to the public policy of this state.

47-34-205.

This part does not prohibit a social media platform from:

(1) Censoring expression that:

(A) The social media platform is specifically authorized to censor by federal law;

(B) Directly incites criminal activity or consists of specific threats of violence targeted against a person or group because of their race, color, disability, religion, national origin or ancestry, age, sex, or status as a peace officer or judge; or

(C) Is unlawful expression under federal law or the law of this state;

(2) Authorizing or facilitating a user's ability to censor specific expression on the user's platform or page at the request of that user; or

(3) Taking action to restrict access to, or the availability of, material in accordance with 47 U.S.C. § 230 that the social media platform considers to be obscene, lewd, lascivious, filthy, excessively violent, harassing, or otherwise objectionable, regardless of whether the material is constitutionally protected.

47-34-206.

(a) A user may bring a private cause of action for a violation of this part. Upon a finding by the court that a social media platform has violated this part, the court may award the following to the user:

- (1) Actual damages;
- (2) If aggravating factors are present, punitive damages;
- (3) Other forms of equitable relief, including injunctive relief; and
- (4) Costs and reasonable attorney fees.

(b) If a social media platform fails to promptly comply with a court order in an action brought under this section, then the court shall hold the social media platform in contempt and use all lawful measures to secure immediate compliance with the order, including daily penalties.

SECTION 2. If a provision of this act or its application to a person or circumstance is held invalid, then the invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to that end, the provisions of this act are severable.

SECTION 3. This act takes effect January 1, 2024, the public welfare requiring it.